THE BALLOT IN NEW YORK.

IN the first constitution of the state of New York, we find a provision which should be carefully read and pondered. By that provision the people of the state authorized an experiment to be made of voting by ballot. Grave doubts were entertained as to the consequences of the innovation.

And whereas an opinion hath long prevailed among divers of the good people of this state that voting at elections by ballot would tend more to preserve the liberty and equal freedom of the people than voting *viva voce:* To the end, therefore, that a fair experiment be made, which of these two methods of voting is to be preferred —

Be it ordained, That as soon as may be after the termination of the present war between the United States of America and Great Britain, an act or acts be passed by the legislature of this state for causing all elections thereafter to be held in this state for senators and representatives in assembly to be by ballot, and directing the manner in which the same shall be conducted. And whereas it is possible that, after all the care of the legislature in framing the said act or acts, certain inconveniences and mischiefs, unforeseen at this day, may be found to attend the said mode of electing by ballot:

It is further ordained, That if, after a full and fair experiment shall be made of voting by ballot aforesaid, the same shall be found less conducive to the safety or interest of the state than the method of voting *viva voce,* it shall be lawful and constitutional for the legislature to abolish the same, provided two-thirds of the members present in each house, respectively, shall concur therein.[1]

The experiment of voting by ballot for governor and lieutenant-governor was tried in 1788,[2] with such success that, nine years after the introduction of this system, it was extended to the election of members of the legislature.[3] The only requirement in these acts relating to the form of the ballot was that it should be a paper ticket, containing in writing the names of

[1] N. Y. Constitution of 1777, art. vi. [2] Act of March 27, 1788, chap. xvi.
[3] Act of February 13, 1797, chap. xv.

the candidates for the several offices. The purpose of these laws was to secure secrecy at elections.

Since their passage, the political institutions of the state and city of New York have become more democratic and the population more complex; and with these changes the simple provisions of these acts, from time to time found inadequate and insufficient, have been modified and enlarged. For receiving the votes, the cigar-box or other casual contrivance, inviting frauds, has been superseded by the ballot-box of glass, displaying its contents, furnished and guarded by state authority. Ballots of varying tints and sizes, used as a means to reveal the elector's vote, have been displaced by a ticket uniform in size and color and printed in form and manner precisely indicated by the law.

None of these changes, however, can be compared in importance with the revolution effected by the registration acts. The first of these acts, passed in 1859, was crude and defective in its provisions; but it established the principle of registration, now universally conceded to be essential for honest elections. In 1859, and as late as 1873, this principle was vehemently opposed; and in the present struggle for electoral reform it should not be forgotten that the same forebodings, which are heard to-day from the timid and the doubting, were expressed eighteen years ago by the opponents of the registration acts. In his annual message of 1870, Governor Hoffman said:

> There are many who believe, after a fair and full trial of them [the registry laws], that far better results would be obtained everywhere by providing for the establishment of smaller polling districts and the full and free exercise of the privilege of challenge on the day of election.

And again in his message of 1872: "I have little faith in them to prevent frauds at the polls." The fact that time has dealt so severely with the fears and doubts of Governor Hoffman should give warning to the foes of electoral reform to-day.

Some persons may think that the people of New York must have degenerated greatly to require now, in addition to the many reforms already enacted, further safeguards against elec-

tion frauds, while during the early years of their history the decalogue seems to have been found sufficient. A little reflection and some study of our institutional changes will show this to be a hasty conclusion. Under the first state constitution, which remained in force until the year 1821, the only officers for whom the electors of New York city voted were the governor and lieutenant-governor, the city's representatives in the assembly and senate, and the aldermen and assistants, constables, assessors and collectors. All other officials, state, county and municipal, were designated by appointment. Suffrage was by no means universal: it was virtually confined to freeholders. These simple political conditions prevailed until the constitutional changes of 1821 and 1826 broadened the suffrage; and even then the most important and lucrative municipal offices were not yet filled by popular election. The mayor and other executive officials were chosen annually by the common council. In 1834 provision was first made for the popular election of the mayor. The modern and existing municipal conditions date only from the year 1849, when the ultra-democratic ideas, then regnant throughout the world, produced a charter which provided for the election of the heads of all the executive departments. The citizens of New York were then brought face to face with the problem of self-government in its broadest sense. Its solution was made more difficult because of other nearly contemporaneous changes. Municipal elections, previously held in the spring, now took place on the same day as state and national elections. All limitations of the suffrage had disappeared with the constitutional amendment of 1826, and all property qualifications for office had been abolished in 1845. Immigration, which had been sluggish, assumed its present large proportions. In 1849, it exceeded 200,000. The population of the city was less than 500,000, so that the residents of foreign birth and extraction became numerically important at the same time that they obtained the most liberal rights of suffrage. The town of 1815, with 100,000 residents, with freehold qualification for suffrage, and with a charter under which the most important offices were filled by the state council of

appointment at Albany, had become, by the year 1850, the metropolis of the country, with a population in excess of half a million, with universal manhood suffrage and with a charter by which the city electors were authorized to choose at popular elections all their officials, administrative and legislative.

Looking backward, it seems a strange thing that the people of New York should have chosen the moment at which the population of New York city was undergoing an important change in character to introduce the principle of manhood suffrage, and stranger still that they should have chosen the same moment for an attempt to solve the problem of municipal self-government. Their action is hardly less strange than that of our national government, in emancipating and enfranchising the negroes almost with one stroke. In New York city the results were almost as disastrous as negro rule has been in the South. Vast frauds, corrupt elections, and the choice of law-breakers as law-makers appeared contemporaneously. In 1855, one of the local parties

> nominated for the mayoralty a man who had been a year previously proved guilty, in open court, of forgery and swindling; and he was twice elected. . . . In 1866, they nominated for Congress an ex-pugilist, street rowdy and keeper of a gambling-hell, all in one person, and elected him without difficulty.[1]

The corruption and fraud of this period culminated in the unprecedented villainies of the Tweed ring. In the year 1836, when the population of the city was about 270,000, its annual expenditure was but a little in excess of $1,000,000; in 1860, with a population of 814,000, the expenditure was $9,750,000; and in 1870, with a population of about 1,000,000, the total disbursements exceeded $23,000,000. The population had not increased fourfold in these thirty years, but the expenses of city government were twenty-three times as great. Between the years 1840 and 1876 the permanent debt of the city had increased from $10,000,000 to $113,000,000. In all these years dishonesty was the largest item in the annual budget.

[1] *The Nation*, May 30, 1867.

The corrupt and venal officials of these decades maintained and strengthened their supremacy by their unprincipled use of the election machinery. Shortly before his death, in 1877, Wm. M. Tweed, during an examination by a special committee of the board of aldermen, testified as follows:

Q. — What were they [the representative men of the Tammany organization in each ward] to do in case you wanted one man elected over another?

A. — Count the ballots in bulk, or, without counting them, announce the result in bulk, or change from one to the other as the case may have been.

Q. — Then these elections were really no elections at all?

A. — The ballots made no result; the counters made the result.[1]

Among the first efforts for reform, after the downfall of Tweed, was the amendment of the election and registration laws. The subsequent history of our elections shows that the changes made were not sufficiently radical and comprehensive. Charges of fraud and corruption are to-day not only made and not refuted, but are conceded to be true. But little dissatisfaction is found with the count of the votes, which is now comparatively well guarded; but through false registration, through the bribery of electors and, above all, through the printing and distributing of the ballots by the party organizations and the "trading" which this system has developed, the popular will is still defeated at elections. The story of the frauds perpetrated in the eighth assembly district in the elections of 1887, as told by the City Reform club,[2] illustrates the fraudulent methods practised by the politicians.

The frauds consisted in part in the registration of illegal voters. There were 132 votes registered from one lodging house, most of which are known to have been fraudulent. From another house, containing but five legal voters, there were thirty-seven names registered. Among other fraudulent devices were the organizations formed for the purpose of selling the votes of their members to the highest bidder. The mem-

[1] Special Committee Report, pp. 133, 134. [2] Statement as to Election Frauds.

bers of these partnerships were obliged to vote as their officers dictated. A few days before election, the vote of one of these clubs was purchased for the sum of two hundred and fifty dollars, which amount was divided up equally among the members of the organization on the evening of that day.

Mr. Elihu Root, in a letter addressed to the Brooklyn Citizens' league, January 19, 1888, stated that

> fifteen thousand names were registered from tramp lodging houses in New York in 1887. It is safe to say that fourteen thousand of these were registered for the purpose of selling their votes. The business seems to have been reduced to a system, under which the lodging house keepers make the contracts. There is preserved the evidence of eye witnesses who have seen such contracts carried out.

False registration and bribery may thus do much to vitiate an election. But the greatest danger to the suffrage flows from the printing and distributing of ballots by irresponsible political organizations. If these organizations fail to print a candidate's name on the ballot, or substitute, in pursuance of a bargain, the name of his party opponent on the regular party ticket; or if, after having printed, they conclude not to distribute any or all of the ballots; or if in the distribution they replace, in the party bunch, one of the party tickets with the corresponding ballot of another organization, — greater and more wide-reaching frauds are accomplished than can be attained by more directly corrupt practices. And all these things are done. They are the latest and most perfect developments of election corruption. These practices are called "trading" and "dealing"; and the candidates who are traded and dealt out of an election are said to be "sold out" or "knifed." This "business" is called by "supersensitive" people "treachery." In the letter already referred to, Mr. Root points out the existence of this evil, and adds that the party organizations cannot secure the honest distribution of ballots, "because they have not the power to detect, try or punish the offences, and their control, therefore, over their agents who undertake the distribution of ballots, is insufficient." It is well known that such deals are made at every election in this city. In the eighth assembly district they

have been carried out so publicly that the county committee of the Republican party has repeatedly investigated the conduct of the leaders in this district, and has attempted to "discipline" the guilty parties. The report of the campaign committee of 1888 charges:

> The result shows that the national ticket only was strongly supported, the state ticket fairly well, *and that it was well-nigh impossible to obtain Republican county and congress[ional] ballots from the Republican booths.* County tickets with Hugh J. Grant for Mayor [the Tammany candidate] were openly given out, and with such success that Joel B. Erhardt [the Republican nominee] received only 1700 votes in the eighth assembly district. [The party vote for president and governor was over 5000.] The candidate for Congress was treated in the same manner. Never, we believe, in the history of politics in this city, has a Republican organization so disgraced itself by broken pledges and dishonesty in taking money from opposing candidates, promising support to all.

This report, recommending the abolition of the eighth assembly district organization, was adopted by a large majority, and with its adoption the party publicly acknowledged the truth of these charges.

In this manner are the popular elections of New York City conducted. The evils above enumerated, bribery, false registration and dealing, are due, in no small degree, to the fact that the politicians who superintend the false registration, who manage the bribery and consummate the deals, are sure of the results of their efforts. They do not labor upon a mere chance that the unlawfully registered and bribed voter will fulfil his promise; the system of elections guarantees them the fulfilment of their bargain. The law permits them to hand the ballots to a voter, to follow him to the polling place and to see that he casts the ballots handed him. And this is the practice; so that only when assured of *quid pro quo* do the bribers pay. The dishonest electors, says Mr. Root, are

> marched in a body to the polling place, accompanied by the ballot distributor, holding up in plain sight in one hand the ballots which he has given them, so that he may see they are not changed until they are actually deposited in the ballot box. When that has been accomplished

they proceed to some appointed rendezvous, and, upon his testimony as to their performance of the contract, they receive the $2 or $5 or whatever may be the consideration for the vote. Of course, if each of these voters had full sets of tickets for all the candidates, and if instead of being accompanied to the polls by the distributor he were required to vote in such manner that no one but himself could know what ballot he voted, there would be practically an end of bribery, because no one would pay money upon the word of a man who would sell his vote.

An equally serious evil is the existing method of nominations. The success of independent candidates is almost impossible on account of the cost of elections. In a municipal election the printing bill of each of the organizations is no less than $25,000; to secure a distribution of the party tickets about $60,000 more are spent. In the campaign of 1882, in which Allan Campbell was a candidate for the mayoralty, Mr. Campbell's canvass was made in a period of ten days. For the purpose of making that canvass, $63,000 were subscribed; for manning the polls and supplying booths, for printing the tickets and for their distribution by mail, $43,000 were expended.[1] This large amount of money was needed merely to bring Mr. Campbell's ballots properly before the electors. Only the indignation aroused by the recent exposure of vast frauds can create, for a temporary purpose, an independent organization able to conduct such a canvass with success.

It is not intended to detract from the importance of parties nor to suggest a government without them; but it appears desirable, for the welfare and stability of our institutions, to provide election laws which will enable the citizens to nominate and elect candidates without the aid of organized parties. In order to appreciate fully the evils that flow, in New York city, from the fact that the party organizations possess a practical monopoly of nominations, it should be remembered that the party candidates are nominated at primaries and conventions representing at most ten per cent, and often only two per cent, of the party vote.[2]

The remedy is always suggested by the nature of the evil.

[1] Wm. M. Ivins, Machine Politics and Money in Elections.

[2] See Nominations in New York City, POLITICAL SCIENCE QUARTERLY, III, 1 (March, 1888), pp. 113, 115 *et seq.*

If an election system can be devised under which the surveillance of the fraudulently registered and bribed voters will become impossible and dealing cannot be practised, the election frauds from which we now suffer will disappear. While these frauds have assumed their most acute form in New York, they have not failed to appear in other states; and the growing recognition of their dangerous character and of their immediate causes has led to a widespread movement for the modification of our election laws. Bills have been introduced in many states, and in three (Massachusetts, Wisconsin and Kentucky) laws have been passed to establish or restore the purity of elections. But the first impulse to this movement may be said to have been given in New York city. The form of all these ballot bills has been derived from the Australian and the English statute books, but in their minute provisions care has been taken to adapt them to the special needs and conditions found prevailing in this country. Never has any law received more careful consideration than that bestowed by Englishmen upon the existing English ballot act.[1] The act was at first applied only to a part of England and to parliamentary elections; but it has been extended, after a satisfactory trial, to the whole kingdom and to municipal and county as well as general elections. The *viva voce* system which prevailed before the adoption of this law, had produced great corruption and fraud, bribery and intimidation. To recommend a system free from these dangers, a commission was appointed by Parliament in 1868, of which the Marquis of Hartington was chairman and Sir Michael Hicks-Beach, Mr. James and Mr. Villiers, among others, were members. It wisely began its labors by a study of the systems of election of other countries and examined, at its many sessions, competent witnesses whose testimony has great value. The laws of France, of the United States, of South Australia, Victoria, Greece and Italy were passed in review. The American and French laws were found faulty, because,

[1] For the history of this act, see Goadby, The Ballot in England, POLITICAL SCIENCE QUARTERLY, III, 4 (December, 1888), p. 654; and John H. Wigmore, Australian Ballot System, Boston, Chas. E. Soule, 1889.

under them, the ballot is not necessarily secret. An elector can be observed when taking a ballot and then followed until he has voted it. The Greek and Italian laws were not deemed suited to the more democratic institutions of England. In the Australian law books, however, the commission found a system which it firmly believed would subserve the desired ends. The ballots in the Australian colonies are printed by the government and distributed by its officials at the polling places; they must be prepared in compartments to which the elector retires alone and be voted by him before leaving the polling room. This system compels secrecy and thereby prevents bribery, for people who sell their franchise will not be trusted by their bribers to vote as they are paid to vote. At the first trial of the act in Australia, an effort was made to evade the consequence of compulsory secrecy. A bribed voter, perhaps the first one, was handed an unofficial ballot or a blank piece of paper and was promised his pay on condition of voting the paper handed him and giving up the official ballot. The bribers would then prepare this official ballot, hand it to the next bribed voter, and receive from him his unmarked official ballot. In this way the corruption of the voters could continue until the close of the polls. This device was first employed in Tasmania and received the designation of "the Tasmanian dodge." This practice suggested the need of an identification of the official ballot; and provision was thereupon made for the written indorsement of the name of one of the election officers. The English law, adopted after the labors of the commission were ended, embodied the important principles of the Australian ballot acts. It required the use of a stamp for the identification of the official ballot.

It is but natural that the Australian and English acts should have formed the basis of the proposed reform bills in our country. The evils here are of no other kind, though more exaggerated in degree, than in Australia or England. Such enactments in our states will not only defeat bribery (to which false registration is due), but, if properly drafted, trading also; and independent nominees will have an opportunity as favorable as the

candidates of machines and organizations, because the expense of printing and of distributing the ballots will become state burdens. The mere statement of the evil makes the remedy so obvious "that the first emotion of any inquirer who has gone to the bottom of the subject is one of astonishment that the neglect was not seen and remedied long ago." [1]

In order that such a measure may be comprehensive, it should include, in whatever form and with whatever details, the following provisions:

(1) The ballot should be printed and distributed at public expense.

(2) The names of all candidates for the same office should be printed upon the same ballot.

(3) The ballot should be delivered to the voters within the polling place on election day by sworn public officials, and only ballots so delivered should be counted.

(4) The voter should be guaranteed absolute privacy in preparing his ballot, and the secrecy of the ballot should be made compulsory.

The first provision will so greatly facilitate the election of independent candidates that the machine will lose much of its present influence and power; the second will destroy dealing and trading; and the third and fourth, which will make the ballot really secret, will render bribery rare because its fruits will be uncertain.

Without discussing in detail any of the ballot bills already adopted in the United States, it is intended to outline their general character. They all necessarily involve such provisions as to nominations that the officer charged with the duty of printing the ballots may be informed of the names to be placed upon them. In this is included the possibility of independent candidatures. The law recently enacted in Massachusetts, to go into effect November 1, 1889, and that adopted in Kentucky for the city of Louisville, already in force, are as comprehensive as the Australian or English ballot acts and embody every one of the four important principles.

[1] The Law and the Ballot, *Scribner's Magazine*, February, 1888.

The Massachusetts act enables both individuals and organizations to nominate candidates. Nominations may be made by

> any convention of delegates representing a political party which, at the election next preceding, polled at least three per cent of the entire vote cast in the state or in the electoral district or division thereof for which the nomination is made, or [by] any convention of delegates who have been selected in caucuses called and held in accordance with a special statute providing therefor;

and also by one thousand qualified voters for offices to be filled by the electors of the state at large, and by one for every one hundred persons who voted at the preceding election in the electoral district for which the candidate is presented. The first two principles above set forth are recognized in the provisions of sections 1 and 10:

> All ballots cast at elections . . . shall be printed and distributed at public expense as hereinafter provided.
>
> Every general ballot . . . shall contain the names, residences, together with street and number, if any, and the party or political designation of all candidates whose nominations for any offices specified in the ballot have been duly made.

The third and fourth principles are embodied in the provisions of sections 22 and 23, that any person desiring to vote shall give his name, and that, if such name is found upon the check-list by the ballot officer having charge thereof, the ballot clerk shall give him one ballot; that on receipt of his ballot the elector shall forthwith, and without leaving the enclosed space (a space containing voting shelves or compartments and surrounded by a guard rail), retire alone to one of the voting shelves or compartments to prepare his ballot; that before leaving the voting shelf or compartment the voter shall fold his ballot without displaying the marks thereon, and that he shall keep the same so folded until he has voted it; and that he shall vote in the manner provided by law before leaving the enclosed space. To insure that the official ballot only shall be voted, the law has enacted that on the back and outside of it shall be printed "a facsimile of the signature of the secretary of the commonwealth or city clerk who has caused the ballot

to be printed." A severe penalty is imposed for the forgery of the indorsement, and a ballot without such official indorsement is declared invalid. This act further declares that any illiterate voter, after receiving the official ballot, shall,

upon request, receive the assistance of one or two of the election officers in the marking thereof, and such officer or officers shall certify on the outside thereof that it was so marked with his or their assistance, and shall thereafter give no information regarding the same.

The Kentucky act is like that of Massachusetts in all important respects. Compartments with doors are to be provided, which the voter must enter when furnished with a ballot and in which, after closing the door behind him, he must prepare his ballot. The official ballot is identified by the name of the ballot clerk, which must be indorsed on the ballot before it is handed to the voter. This bill has already been in operation at one municipal election. The author of the bill, Arthur Wallace, in a letter dated January 26, 1889, states:

The first trial of the measure occurred December 4, 1888, and was altogether satisfactory to its friends. The secret ballot frees the voter from intimidation through his business, political or social connections, and enables him to vote as his conscience dictates.

It did not absolutely prevent bribery, but it rendered the use of money very risky and unsatisfactory. The corruptionist could buy votes as before, but he had no assurance that the goods would be delivered, and he had to rely solely on the honesty — a frail dependence — of the bribed party. One who will accept a bribe is not, ordinarily, scrupulous in complying with his contract, and after receiving the money is apt to vote his preference, regardless of the monetary influence. This was the view our corruptionist took of the matter. His occupation on election day seemed, if not altogether gone, a very dull one. In the evening, at many of the polling places, he was not visible, having left in disgust.

As a further evidence that the corruptionist could not work with money successfully under this system, the result of the election in most of the wards was a surprise and disappointment to him.

Only these two states have enacted ballot bills embodying all of the principles enumerated. In Wisconsin, an act applying to elections in cities of 50,000 inhabitants and over — *i.e.*, to the

city of Milwaukee alone — was passed as early as April, 1887. It is a compromise and not a comprehensive reform bill, and but little good would be derived from its application to our city elections. Under this act the state is charged with the distribution of the ballots, the duty of printing them remaining with the organizations. For the distribution, a ticket room adjoining the voting room is provided, in which shall be

> kept a suitable table or tables having compartments conveniently arranged, so that the voter after entering the ticket room may be enabled conveniently to select his ballot. Upon such table shall be deposited and kept tickets which may be prepared for the use of voters by any political party.

Of course the printing of the ballots, as well as their distribution, should have been assigned to the state; but in spite of this omission the bill would have been a step forward, if its other provisions had not been faulty. The ward committee of the political party may designate two persons to act as custodians of the tickets in the ticket room. This enables the organizations, through their custodians, to observe and watch the voting. The opportunities for these custodians to exert improper influence are increased by the provision that, "if requested by any voter to alter any ticket, the one so requested may make such alterations as the voter requests. . . ." Not only is supervision possible, but the custodians are directly authorized to prepare any elector's ballot at his request, whether the elector is illiterate or not. There is no compulsory secrecy under this act. An effort will be made to secure its amendment at the present session of the legislature.

During the legislative sessions of 1887 and 1888 bills were introduced in Michigan, Iowa and Maryland, but all failed of enactment. The bill introduced in Maryland is almost a literal copy of the New York measure.

The New York bill was prepared by a committee in this city, including representatives of the Union League, Commonwealth and City Reform clubs, and a representative of the Labor party. It was presented to the New York legislature last year by Mr. Yates and was incorporated into the Judiciary committee's bill.

The result is fresh in the public memory: the bill was passed by both houses of the legislature, receiving almost the entire Republican vote and some Democratic support, and was vetoed by Governor Hill.

From its inception, this bill was kept free from any taint of partisan politics. It was drafted, as we have seen, by an unofficial committee in which Democrats and Republicans were represented. It was but one of several ballot reform bills presented to the legislature, other measures having been submitted by Mr. Saxton and Mr. Hamilton, members of the assembly. A careful and patient hearing was given by the Judiciary committee to the advocates of all these bills; a leading Republican of this city, Mr. Elihu Root, appearing in defence of the Hamilton bill. The committee, in rejecting the Hamilton bill and in reporting a measure embodying the advantages of both the Yates and the Saxton bills, showed itself superior to party feeling. It adopted the reform ideas and no party distortion of them.

This bill (which, from the name of the chairman of the Judiciary committee, has come to be known as the Saxton bill) enunciated in its first section the fundamental principle, that "all ballots cast at elections for public officers within this state shall be printed and distributed at public expense." Nominations by political organizations and by citizens acting independently were made possible by the following provisions:

> Any convention, as hereinafter defined, held for the purpose of making nominations to public office, and also electors, to the number hereinafter specified, may nominate candidates for public offices to be filled by election within the state.
>
> A convention, within the meaning of this act, is an organized assemblage of delegates representing a political party which, at the last election before the holding of such convention, polled at least three per cent of the entire vote cast in the state, county, or other division or district for which the nomination is made.
>
> Electors residing within the district or political division for which candidates are to be presented, equal in number to at least one per cent of the entire vote cast at the last preceding election in the state, county, or other division or district for which the nomination is to be made

were also qualified to place a candidate in nomination.[1] The ballot was to contain "the name of every candidate whose nomination for any office specified in the ballot" had been certified to; and in order to make the preparation of the vote easy, the bill provided that

> the names of candidates nominated by each party shall be grouped together upon the proper ballot, and each group shall be headed by the name of the political party by which the candidates comprising said group were placed in nomination.

Compulsory secret voting was guaranteed by the requirement contained in section 22:

> On receipt of his ballots, the elector shall forthwith, and without leaving the polling-place, retire alone to one of the places, booths or compartments provided to prepare his ballots. . . . After preparing his ballots, the voter shall fold each of them so that the face of the ballot will be concealed, and so that the printed indorsement and the signatures or initials of the inspectors thereon may be seen. He shall then vote forthwith, and before leaving the polling-place.

It was believed to be of the essence of the bill to identify the official ballots and so to prevent the use of those unofficially printed; and section 21 therefore provided that,

> before delivering any ballot to an elector, the two ballot clerks shall write their names or initials upon the back of the ballot, immediately under the printed indorsement.

The requirement that *both* clerks should indorse their names or initials was expected to reduce greatly the opportunity for fraud and for the use of improper ballots.

The illiterate voter was prominent in the minds of the framers of this bill; not, perhaps, because it was believed by them that the permanency of republican institutions depends on the

[1] The purpose of these provisions was to prevent reckless nominations. Under the English act such nominations were checked by the fact that each candidate had to pay his share of the expenses after election even if he polled only one vote. It is interesting to note that the English have now so little fear of inconsiderate nominations that, when the Local Government act of 1888 extended the operation of the Ballot act to the elections for the new county councils, this check was removed, all costs properly incurred in the election of county councillors being made a county charge. 51 and 52 Vict. c. 41, § 75 (17).

franchise of the ignorant, but because it was feared that, if the rights of this class were neglected, its champions would rise from almost every seat in the legislature. The solution of this difficulty was therefore an important task. The illiterate voter, many feared, could not, without aid, prepare his ballot alone in a compartment. To permit him to be accompanied by a friend would throw open the door to the ticket pedlers and workers whose exclusion from the polling place was one of the principal objects of the bill, and would give the party agents the same undoubted assurance they now have that their ticket is voted. To compel him to disclose his vote by requiring him to call upon the officials to mark his ballot would antagonize his defenders. The illiterate voter thus placed the legislature in a quandary. The remedy was found in a provision rendering the marking of the ballot so simple that the illiterate voter could effect it without assistance, and giving him in addition the privilege of consulting with the official inspectors and of asking them for aid. Section 25 of the bill provided:

> Any elector who declares under oath to the ballot clerks that he cannot read or write . . . may declare his choice of candidates to either one of the ballot clerks, who, in the presence of the elector, shall prepare the ballots for voting in the manner hereinafter provided; or such elector, after making such oath, may require one of such ballot clerks to read to him the contents of the ballot, so that the elector can ascertain the relative position of the names of the candidates on each ballot.

It should be remembered that all the candidates of each party were to be grouped together on each ballot, and that the party designation was to be printed at the head of each group.

Such were the main features of the bill passed by the two branches of the state legislature last year and submitted to the governor. It is apparent from his veto message that he felt that the impulse which led to its passage was not only Republican party spirit, but also the discontent of honest and good citizens of all parties with the existing laws of election. The governor said:

> I would cheerfully approve a well-considered measure which should provide, substantially, that each elector, just before depositing his ballot,

should enter a separate compartment or booth provided for that purpose, where he can alone assort and arrange his tickets to suit himself, and from this compartment proceed directly to the inspectors, unattended by any one, and deposit his ballot. Such a provision, plain, simple and easily understood, would tend to restrict bribery and corruption, as the bribers would be unable to know or determine what ticket had actually been voted, and would be less likely to attempt to improperly influence the voter. So far as this bill partakes of this feature, it is meritorious and merits my approval.

From the above sentences, it would appear that the governor was thoroughly convinced of the inadequacy of our election laws and sincerely desirous of their improvement; and that his veto was due to a difference of judgment, on his part, as to the expediency of the particular measures adopted by the legislature. But some of the special criticisms made by him seem to show an unfriendly attitude, not merely towards the Saxton bill, but towards the reform which it was intended to bring about. The bill provided, as we have seen, for printing the names of candidates nominated either by organizations or by independent electors. Notwithstanding, the governor said:

True, the elector may write the name of a candidate on his ballot, but this suggests a general and fundamental objection to the bill, namely, that it gives formal recognition only to candidates nominated by the prescribed methods.

Is this a faulty provision, if the "prescribed methods" give every elector an equal opportunity to nominate his candidate? Those only receive recognition now who pay enormous assessments to the parties and receive their nominations at the hands of a few political managers. Again: the governor, defending the "system of elections which has been in operation for a century" against certain alleged innovations of the Saxton bill, declares that

the prodigious and irresponsible power with which the ballot clerks are armed, considered in connection with their policy of appointment, and especially the fact that only two parties competing in an election can be represented by those clerks, presents a fatal objection to the bill.

But the bill submitted to the governor provided "that *at the same time and in the same manner as inspectors of election are appointed, or elected,* two ballot clerks for each election district in the state should be appointed or elected." Inspectors have, under the present system, an equal opportunity to frustrate an election, by remaining away from the polling place, concealing the registration list and failing to enforce order; but usually they do their duty. Further: the governor errs in saying: "but this bill makes provision for a compulsive disclosure of their votes by illiterate electors." This section of the bill (25) has already been fully discussed; it provides only, as we have seen, that such elector "*may* declare his choice to either one of the ballot clerks." The New York bill did not differ in these details from the measures passed by the legislatures of Republican Massachusetts and Democratic Kentucky and approved by the governors of those states.

In the state canvass of 1888, ballot reform was earnestly discussed. It was a leading issue. Notwithstanding the defeat of the party and candidate which indorsed the Saxton bill, Governor Hill has devoted a large part of his recent message to the legislature to "reform in election methods." It is believed that the legislature will again pass a satisfactory bill; hence the governor's views are of the utmost importance. He suggests a measure embodying provisions for the printing of ballots in the manner now provided by law, for their distribution at public expense, and for the preparation of the ballots in compartments to which electors must retire for this purpose. He would probably require that the candidate nominated by independent citizens should show a large support among the electors, in order to secure the distribution and printing of his ballots at public expense; for he says:

> While ballots should be furnished for the candidates of the principal political parties polling a certain fair percentage of votes at the previous election, yet any further provision compelling their furnishing should be strictly guarded.

Neither is he inclined to recognize the official ballot to the exclusion of those printed by organizations and individuals, nor

to have the names of all candidates for the same office printed upon the same ballot. He says:

> Grave objections exist to any provisions vesting the exclusive power of furnishing ballots in the state, county or city. That power should be concurrent with parties, candidates and individuals. While the state, county or city may furnish ballots and thereby always insure a sufficient supply for the convenience of voters, and thus tend to relieve candidates from the necessity of large political assessments for such purpose, yet no good reason exists why parties, candidates or private individuals may not themselves be permitted voluntarily to furnish their own ballots in case they desire to do so. . . . Each elector should be required to pass behind screens or within compartments or booths, situated within such reserved boundaries, and there alone prepare or assort his tickets, and then proceed directly from such place to the polls without any one accompanying him or any opportunity being offered for discovering what ticket he votes. The value of such a provision consists not in permitting the elector to cast a secret ballot, but in compelling him to do so.

A complete reform would not be accomplished by the enactment of the measures proposed by Governor Hill, but some good would result. The earnest advocates of ballot reform are naturally reluctant to accept a compromise bill. They would be unwise to surrender without a struggle any of the four cardinal principles above enumerated, because the only reason that has been presented for the substitution of a modified and mutilated bill is that the enemies of the reform must be placated. But if a compromise is unavoidable, such a measure as that outlined by the governor ought to be passed.

There is a certain honest popular opposition to a comprehensive ballot bill. Some fear the changes proposed, because they are radical; others fear that the illiterate vote may suffer in some unknown and undefined manner. To the latter class no more convincing argument can be presented than the testimony given by Sir Charles Dilke before the English committee already referred to:

> I may state, in reference to that, that at Manchester, where a third of the voters are a very ignorant class indeed, I believe only twelve or thirteen papers were bad votes. . . . I can say that of those who did

vote, a great number were unable to read or write, because I was partly in charge, from my wish to see it, of one of the booths, and I know that a very considerable number of those who came up to vote there told me afterwards, as they were standing about, that they were unable to write.[1]

This was the experience at the first trial of the Australian system in a manufacturing city in England. The illiterate voter, without the aid offered to him in the original Saxton bill, was able to mark his ballot. To this class, the revised bill which Mr. Saxton will submit to the legislature at its present session offers a better alternative in providing for the printing in the newspapers of a facsimile of the official ballot, which, prepared at home with the aid of friends, can be copied or pasted on the official ballot in the polling place.

Those who fear the change because it is radical should not forget that our registration acts have met and overcome this dread, and that our existing election machinery is defective and produces wide-reaching corruption and dishonesty. The defects of our election system were never stated more strongly than by Sir Charles Dilke before the parliamentary committee. He said:

The American and French systems, as the committee will see, are so far secret as this: that they may be secret, but that they need not in all cases necessarily be secret; and in that they differ entirely from the Australian system, if properly carried out, because the Australian system, if properly carried out, is and must necessarily be secret. By that, I mean this: that in Paris, if you follow a voter along the queue, along the string of voters, you can see him taking the voting paper of a particular candidate. He takes it open and you can see which he takes. There is no power to prevent it, if he wishes you to see it in his hand from the time he takes it to the time that the deputy returning officer puts it into the box; so that under the French or American system, if the voter wishes that other persons should know how he votes, he can ensure that they shall know. Under the Australian system the voter cannot make known for certainty, as the committee are aware, the way in which he votes, because if he tells you how he votes he may be telling a lie.

[1] Report of Select Committee 1868–9, vol. viii. For further testimony see Goadby (cited above), pp. 669 *et seq.*

What the ballot act accomplished in Australia was told to the commission by several witnesses. There, it abolished bribery and ended corruption. It proved so satisfactory that it was adopted in Victoria, Tasmania, New South Wales, Queensland and West Australia a few years after its first trial in South Australia in 1858. It is unreasonable to regard this method of voting as experimental. It has been in use in Belgium since 1872, in Canada since 1874, as well as in all the Australian provinces and in Great Britain and Ireland. It has received

the approval of the legislatures of seventeen civilized states. Forty-five times these different legislatures have registered their approval of the system by various enactments (exclusive of amendments). The people who now conduct their election by this machinery number nearly eighty-five millions; they are all citizens of free states living under constitutional government and enjoying representative institutions.[1]

It is not contended by the advocates of ballot reform that the adoption of the official ballot will remove all the existing evils of elections; but it is confidently asserted and sincerely believed that greater reforms in our elections will result from such a measure than from any other to which attention has been directed. It should, however, soon be supplemented by an enactment limiting the expenditure of candidates at elections and providing for a sworn statement of such expenses after the campaign. The governor directs attention to this matter in his late message.

The friends of the official ballot will surely find encouragement and pleasure in the report of the progress which has been made in the acceptance of their ideas in this country. There is now scarcely a Northern state in which steps are not being taken to secure the enactment of an official ballot law. In a large number, bills are either pending before the legislatures or are ready for introduction. There are bills in some state of development in New York, New Jersey, Rhode Island, Connecticut, Indiana, Missouri, Maine, Michigan, Illinois, California, Virginia, Delaware, Kansas, Tennessee, Ohio, New Hampshire,

[1] Wigmore, Australian Ballot System, p. 28.

Nebraska, Colorado, Iowa, Louisiana and Oregon. But nowhere is there greater need for such a law than in the state and city of New York. New York city has an enormous foreign element. Italians, Bohemians and Poles reside in this city in large numbers; they have established colonies in different quarters of the city, known as Little Italy, Little Bohemia and Little Poland. To many of these people, in spite of the fact that they have been naturalized, our language and institutions are unknown; some have emigrated from countries where they did not enjoy the suffrage, and, not appreciating its importance, they deal in it with as little hesitation as in wares and merchandise. The dense population and the large tenement-house element in certain wards of New York city have created peculiar political conditions. Of the 1,206,694 inhabitants returned by the census of 1880, 542,451 persons or 45 per cent of the total population of the city resided in the district between the Battery and Fourteenth street, — an area including but 2408 of the city's 26,819 acres. In the eleventh, thirteenth and seventeenth wards, with an area (including streets) of less than a square mile (.99), 209,094 persons resided. The state of New York is now, in the language of politics, the "pivotal" state, because its vote usually determines the result of the presidential election, and in it the two great parties are so evenly divided that the change of a few votes may determine the majority. Politicians, appreciating these facts, devote their efforts to New York city and find their opportunity in the foreign population and the crowded city wards. In the last weeks before election day, vast funds are raised to be employed there, and bribery and corruption hold carnival. An election law which will prevent such a demoralization and degradation of the suffrage is urgently needed.

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